

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-13673
Issue No.: 6021/4020
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 23, 2010
Wayne County DHS (76)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on September 23, 2010. The claimant appeared and testified. [REDACTED], FIM and [REDACTED], FIS appeared on behalf of the Department.

ISSUE

Whether the Claimant received an over issuance of benefits that the Department is entitled to recoup or otherwise collect as a debt?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant requested a hearing on November 17, 2009 as a result of receiving a notice of an over issuance due to her care provider being paid more than the authorized child day care hours.
2. The Department advised at the hearing that the Claimant should have been authorized for the 90 hours of Child Day Care benefits instead of the 50 hours the Department had authorized.
3. The Department entered the wrong authorized hours when the Claimant was first approved and used the number of hours of care needed instead of the number of hours the Claimant worked. The Claimant worked 40 hours, full time, and should have been authorized for 90 hours.

4. The Department had no basis to substantiate the alleged over issuance and did not present any evidence with regard to the over issuance of benefits demonstrating the dates and amount of the over issuance. Exhibit 1, DHS hearing summary.

CONCLUSIONS OF LAW

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (formerly known as the Family Independence Agency) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over issuance (OI). PAM 700, p. 1. DHS must inform clients of their reporting responsibilities and prevent OIs by following BAM 105 requirements informing the client of the requirement to promptly notify DHS of all changes in circumstances within 10 days. PAM 700, PAM 105. Incorrect, late reported or omitted information causing an OI can result in cash repayment or benefit reduction.

In the present case, the Claimant protested the department's claim that she had been over issued benefits by the Department. At the hearing the Department did not believe the over issuance could be substantiated and did not submit evidence to prove the alleged over payment of benefits or the amount of the over issuance. The Department in fact believed that its initial error in entering the authorized day care hours caused the over payment of benefits and its action to seek recoupment and an over issuance of CDC benefits. It does appear, based on the entire record, that the Claimant did not receive an over issuance of CDC benefits and therefore the Department is not entitled to a recoupment or a finding of over issuance of CDC benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department's request for a finding of an over issuance of benefits and recoupment is denied and its actions to establish an over issuance and recoupment are hereby REVERSED.

Accordingly it is ORDERED:

1. The Department shall officially correct retroactively its error regarding the Claimant's entitlement to 90 day care hours, and shall take whatever steps are necessary to correct the error in the Department's Bridges system so that the authorized Child Day Care Hours reflect the correct number of day care hours the Claimant was eligible and entitled to receive as 90 hours.
2. This change in hours shall be retro active to the date the Department first assessed and claimed an over issuance of CDC benefits against the Claimant.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 9/27/2010

Date Mailed: 9/27/2010

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

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